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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,573	08/26/2003	Mohan Kalkunte	14221US02	4096

23446 7590 09/04/2007	EXAMINER
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ART UNIT	PAPER NUMBER
2151	

MAIL DATE	DELIVERY MODE
09/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/648,573	KALKUNTE ET AL.
	Examiner	Art Unit	
	Saket K. Daftuar	2151	.

--*The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

THE REPLY FILED <u>27 August 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-30*.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: applicant argument are not persuasive. applicant continues to argues the same argument raised before final office action. Therefore, below is the extract of final office action: As per arguments filed on May 31st, 2007, applicant argues to the substance that:

a.   Garnett failed to discloses determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet.

First of all examiner thanks applicant to clarify "functions" as it was really unclear to the examiner. In response to applicant argument a), Garnett does discloses determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet (see column 32,line 55 - column 33, line 44 and column 35, line 7 - column 36, line 13).

Garnett briefly discloses in Figures 19a and 19b that load balance is performed on all of the incoming "data traffic". Also, in column 31, line 49 - column 34, line 40, Garnett briefly discloses why one ordinary skilled in the art would be needing a load balancer and the functionality of load balancing. In addition, Garnett also discloses:

"Computer systems require management in many different ways, for example, load distribution, access control, secure transaction management and many other functions which may be performed with greatest reliability and/or speed by dedicated hardware. That is not to say that such functions may not be performed by a standard processing cartridge 43 programmed using appropriate application software, merely that specialist hardware (in the form of a non-standard processing cartridge) may provide reliability, performance and/or cost benefits." [Column 31, lines 53-62]

It is clear that Garnett is referring to computer systems management in many different ways such functions include load distribution, access control, and secure transaction management and many others with greatest reliability and/or speed. One ordinary skilled in the art would know all such functions are related to data-processing, data management, and data access control as all of them requires reliable, fast, secure data processing or data management by dedicated computer hardware. Garnett also discloses: "Server load based weighting involves monitoring each server available to the load balancer to determine the current load of that server. The weight for each server is adjusted based on the current load of that server relative to the current load of other servers. To perform the load monitoring usually requires a software agent running on each server to determine the load experienced by that server. Response time based weighting involves measuring an elapsed time between transmitting a request to a server and receiving a response from that server."

Therefore, one ordinary skilled in the art would know the weighted load on each server is "data" and each data loads are monitored using a software agent running on each server to determine the load experienced by that particular server. Therefore, Garnett does discloses determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet

b.   Garnett failed to disclose steering said one or more received packet to at least one of a plurality of blade servers [server] that handles said determined data-processing function.

In response to applicant argument b) Garnett discloses steering said one or more received packet to at least one of a plurality of blade servers [servers] that handles said determined data-processing function (see column 32,line 55 - column 33, line 44 and column 35, line 7 - column 36, line 13). In addition to the disclosure of Garnett from above argument Garnett also discloses: "Each of the servers 505 is connected to the load balancer 501 via a switch 503. Thus incoming data packets arrive at the load balancer and are routed there through to a selected server 505." [Column 32, lines 59-65].

One ordinary skilled in the art would interpret steering said one or more received packet to at least plurality of blade servers as routing incoming data packets via load balancer to a selected server where Garnett mentioned that selected server is a server blade that include a processor and memory can be configured by means of software, firmware or hardware to provide a special purpose function [see column 31, lines 25-27]. Therefore, one ordinary skilled in the art would know that Garnett discloses steering said one or more received packet to at least one of a plurality of blade servers that handles said determined data-processing function.

Respectfully Submitted

Saket Daftuar

VALENCIA MARTIN-WALLACE
PRIMARY EXAMINER